

PROPERTY TAX RECOVERY LEVY LAW GOES INTO EFFECT WITH GOVERNOR'S SIGNATURE

Several weeks ago, we reported on the passage of Senate Bill 508, which provides for a supplemental levy, outside the tax caps (*i.e.*, the limiting rate of the Property Tax Extension Limitation Law ("PTELL")). The bill is designed to make taxing districts whole for revenue lost due to property tax refunds resulting from successful property tax assessment appeals. On Friday, August 20, 2021, Governor Pritzker signed that bill, which makes this new law go into effect immediately. It adds a new Section 18-233 to the Property Tax Code.

Starting with school districts' 2021 levies, county treasurers must annually certify by November 15 the amount of property tax revenues lost due to PTAB or court orders to each district over the previous 12 months from property tax assessment appeals, The Treasurer must then issue a supplemental



or recapture levy in the amount of that loss. These levies will be in addition to a district's tax-capped levies and debt service levies.

As we discussed in June, there are limitations to this new law. [\[Click here for our June 8, 2021, Priority Briefing\]](#). First, it is not available to districts which are not subject to PTELL, *i.e.*, those in non-tax-capped counties. Further, there will be an inherent delay in obtaining the make-whole revenues as the result of the usual extension and collection cycle. And it must be kept in mind that the recapture levies will not make districts whole for revenue losses due to refunds which were not assessment-based, such as those due to tax rate objections or the granting of new tax exemptions.

We also need to emphasize that the reason PTAB and the courts order tax refunds is because of their determinations to retroactively reduce a district's equalized assessed valuation ("EAV"). EAV reductions have adverse consequences for school districts even without immediate tax revenue loss due to refunds. EAV loss means less bonding authority and, most significantly, the shifting of tax burdens to other taxpayers, such as homeowners and small businesses. This result will only



exacerbate the problem already facing many suburban and small city communities, where higher property taxes discourage new development and hold down property values, thus increasing tax rates even more and further discouraging development. It is a cycle of fiscal disadvantage which the State has promised to ameliorate, but which this legislation will only aggravate. These factors should be weighed when future involvement in opposing assessment appeals is considered.

Coincidentally, or maybe not, a new bill, House Bill 4130, was introduced just the day before the Governor's action on Senate Bill 508. This new bill would significantly modify, but not eliminate, the revenue recovery levy. It would, for instance, make the levy discretionary with each district, allow the levies to be implemented over multiple years, and place certain limits on the amount. The General Assembly is out of session now, not to return until the fall session in late October, but we expect to see consideration of this or other proposals for adjustments to the recovery levy provisions in the near future.

In the meantime, districts are best advised to continue to pay close attention to tax assessment appeals for properties



in their communities, but possibly with new strategies in how to address them.

If you have any questions about this important legislation, please do not hesitate to contact one of our attorneys.